

WAC  
10/4/19UNITED STATES DISTRICT COURT  
for the

Southern District of Texas

United States Courts  
Southern District of Texas  
FILED

OCT -4 2019

United States of America

)

David J. Bradley, Clerk of Court

v.

)

John David Nichols

)

Case No.

H19-1867M

*Defendant(s)*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Aug. 7-20, 2017 & Oct. 4, 2019 in the county of Harris in the  
Southern District of Texas, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 2252A (a)(2)(B)	Distribution of child pornography
18 U.S.C. § 2252A (a)(5)(B)	Possession of child pornography

This criminal complaint is based on these facts:

See attached Affidavit.

 Continued on the attached sheet.

Complainant's signature

Robert J. Guerra, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: October 4, 2019

Judge's signature

Christina A. Bryan, USMJ

Printed name and title

City and state: Houston, Texas

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Robert J. Guerra, being duly sworn, hereby depose and state the following:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), assigned to the Special Agent in Charge (SAC), in Houston, Texas. I have been so employed since November 2005. As part of my daily duties as an FBI agent, I am assigned to the FBI Houston Child Exploitation Task Force which, among other things, investigates criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252A and 2252A et seq. I have received training in the areas of child pornography and child exploitation. I have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media. Child Pornography, as defined in 18 U.S.C. § 2256, is:

“any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where – (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; . . . [or] (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.” For conduct occurring after April 30, 2003, the definition also includes “(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from that of a minor engaging in sexually explicit conduct.”

2. This Affidavit is made in support of a criminal complaint charging John David NICHOLS with violating 18 U.S.C. § 2252A(a)(5)(B) and 2252A(a)(2)(B), the possession and distribution of child pornography within the Southern District of Texas.
3. Because this Affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation, I have set forth only those facts that I believe are necessary to establish probable cause that evidence of violation of 18 U.S.C. § 2252A(a)(5)(B) occurred on or about October 4, 2019, and violation of 18 U.S.C. § 2252A(a)(2)(B) on or about August

7, 2017 through on or about August 20, 2017, and were committed by John David NICHOLS. Where statements of others are set forth in this Affidavit, they are set forth in substance and in part.

4. On May 13, 2019, The National Center for Missing and Exploited Children (NCMEC) received a complaint via their CyberTipLine from Dropbox. CyberTip Report 49574735 was reported to the NCMEC CyberTipLine by Dropbox as a result of over 35 video files depicting child pornography being posted to a Dropbox account created by a user using the email address sillyson94@icloud.com; Screen/User name "John Smith".
5. Dropbox confirmed that all files referenced in CyberTip Report 49574735 were viewed by Dropbox, prior to the submission to NCMEC, in accordance with their standard course of procedures. Dropbox also confirmed that all files associated with the CyberTip Report 49574735, were being made publicly available, meaning the files were being shared with whomever the creator of the account provided a link to access the Dropbox folder. In CyberTip Report 49574735, Dropbox stated that the email address, sillyson94@icloud.com, was verified on March 4, 2017. Between the dates of August 7, 2017 and August 20, 2017, there were over 35 video files of suspected child pornography uploaded to the Dropbox account associated with the email address sillyson94@icloud.com.
6. I have reviewed all of the files that were uploaded to the Dropbox account associated with the email address sillyson94@icloud.com and determined that all the video files depict child pornography as defined by Title 18, United States Code, Section 2256. Below is a description of four files that meet the federal definition of child pornography that were uploaded to the Dropbox account associated with the email address sillyson94@icloud.com:
  - a.) **VID\_20170307\_200114.mp4-** This is a video file that is 37 seconds in length, depicting a minor male, who appears to be under the age of 10, being orally penetrated by an adult male's penis.
  - b.) **VID\_20170215\_115823.mp4-** This is a video file that is 1 minute and 32 seconds in length, depicting a minor male, who appears to be under the age of 5, being

anally penetrated by an adult male's penis.

c.) **videocompress-056-Night25.mp4-** This is a video file that is 14 minutes and 18 seconds in length, depicting a minor male, who appears to be under the age of 14, being orally and anally penetrated by an adult male's penis.

d.) **\_Arestra\_pthc kdv Mikael 8yr boy deep throat big cock amazing gay pt.mp4-** This is a video file that is 3 minutes and 20 seconds in length depicting, a minor male, who appears to be under the age of 12, being orally and anally penetrated by an adult male's penis.

7. The Dropbox account associated with the email address sillyson94@icloud.com was last accessed on March 16, 2018, at 10:00:59 GMT, from IP address 47.219.86.133. Due to the length of time between the last access date and the date Dropbox reported the information to NCMEC, the IP addresses associated with the account would not be attributable to any specific person. The email address, however, was found to still be active. The email address sillyson94@icloud.com was found to be maintained and managed by Apple Inc.
8. On July 17, 2019, an administrative subpoena was served on Apple Inc. requesting information relating to the user of the email address sillyson94@icloud.com. The information provided by Apple Inc. shows that the email account was created on December 20, 2014, by John Nichols. The most recent telephone number associated with the iCloud account was provided as 775-303-2498. Apple Inc. also provided several IP addresses associated with the email account sillyson94@icloud.com dating back to the creation date of the account. Of note, the user of the email account sillyson94@icloud.com logged into the email account on March 16, 2018, at 10:02:51 GMT utilizing the IP address 47.219.86.133, which is the same IP address that was used to access the Dropbox account associated with the email address sillyson94@icloud.com on the same date within approximately two minutes from each other (see paragraph 7).
9. Apple Inc. provided information for the email account sillyson94@icloud.com up to the date listed on the administrative subpoena, July 17, 2019. Apple Inc. provided the last IP address used to login into said email address was 99.103.62.233 on July 17, 2019, at 13:11:34 GMT. IP address 99.103.62.233 was found to resolve back to AT&T Internet

Services.

10. On August 30, 2019, an administrative subpoena was served on AT&T Internet Services requesting the subscriber assigned the IP address 99.103.62.233 on July 17, 2019. AT&T Internet Services provided the subscriber information for the user assigned the IP address 99.103.62.233 from 12:10 AM UTC to 11:50 PM UTC as having a service address at 2222 Arbor Street, Houston, Texas 77004.
11. A check of the Texas DPS Sex Offender Registry website showed John David Nichols being a lifetime registered sex offender residing at the address 2222 Arbor Street, Houston, Texas 77004.
12. A National Crime Information Center (NCIC) criminal history check was conducted for John David Nichols. NCIC records indicated that John David Nichols was convicted in Harris County, Texas in 2012, for Indecency with a Child Sexual Contact and was subsequently sentenced to 5 years deferred probation. Nichols' deferred sentence was completed on April 8, 2017.
13. Based off the information provided to SA Guerra, the Dropbox account associated with the email address sillyson94@icloud.com was created while Nichols was still serving his deferred prison sentence. The child pornography was uploaded to said Dropbox account approximately four months (August 2017) after the completion of his deferred sentence.
14. As a part of his sex offender registration, on January 18, 2019, Nichols provided his contact telephone number as 775-303-2498 and his personal email address as sillyson94@icloud.com. The telephone number provided by Nichols matches the same telephone number provided by Apple Inc. as detailed in paragraph 8 and the email address is the same email address used to create the Dropbox account detailed in paragraph 4.
15. On October 4, 2019, FBI Houston executed a federal search warrant at the residence located at 2222 Arbor Street, Houston, Texas. Upon execution of said warrant, authorized by United States Magistrate Judge Christina A. Bryan, John David NICHOLS, hereinafter referred to as "NICHOLS", was identified. NICHOLS was subsequently interviewed by SA Robert J. Guerra and SA Walter Aaron Thompson. After being advised of his *Miranda*

Rights, NICHOLS agreed to make a statement.

16. NICHOLS admitted to the interviewing agents that he was the user/creator of the Dropbox account associated with the email address sillyson94@icloud.com. NICHOLS admitted to uploading child pornography material to the said Dropbox account in 2017. NICHOLS stated he used Dropbox because he thought it was secure and no one would ever find it. NICHOLS admitted to engaging in activities related to child pornography while he was serving his deferred adjudication sentence as set by Harris County.
17. NICHOLS stated he knew child pornography was illegal, but that when he would use drugs, he would not care or think about the consequences of his actions. NICHOLS advised the interviewing agents that there would possibly be child pornography stored within iCloud storage accessible from his mobile devices. NICHOLS also stated there would be child pornography stored on his laptop computer located in his bedroom. NICHOLS stated he had not accessed or viewed child pornography for about a year.
18. SA Guerra conducted a preview of the laptop computer found in NICHOLS' bedroom and observed at least 100 video files depicting child pornography. Several of the videos depicted minor males, who appeared to be under that age of 12, being orally penetrated by an adult male's penis. Based on my training and experience the files viewed met the federal definition of child pornography as defined by Title 18, United States Code, Section 2256

#### CONCLUSION

19. Based on all information set forth above, your Affiant believes there is probable cause to believe that on or about August 7, 2017 through on or about August 20, 2017, John David NICHOLS was in violation of Title 18 U.S.C. § 2252A(a)(2)(B) by distributing child pornography material to the Dropbox account associated with the email address sillyson94@icloud.com, and that on or about October 4, 2019, NICHOLS was in violation

of Title 18 U.S.C. § 2252A(a)(5)(B) by possessing child pornography material on his personal laptop found at 2222 Arbor Street, Houston, Texas.

  
\_\_\_\_\_  
Robert J. Guerra  
Special Agent, FBI

Subscribed and sworn before me this 4/13 day of October 2019 and I find probable cause.

  
\_\_\_\_\_  
Christina A. Bryan  
United States Magistrate Judge